IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

S.C.SUIT NO.3544 OF 1991

Mahanagar Telephone Nigam Ltd. ...Plaintiffs

V/s.

Mr.Jag Mohan Khan (through his C.A.)...Defendants

.....

Ms.S.I.Shah i/b Ms.Asha N.Nair for Plaintiffs.

None for Defendants.

.....

CORAM: A.M.KHANWILKAR, J.

OCTOBER 26, 2007.

P.C.

1. This Suit is filed by the Plaintiffs for recovery of amount due and payable by the Defendants under four different telephone bills in respect of telephone No.8829862 (later on changed to 4129862). The Defendants failed to pay the amount so demanded by the Plaintiffs as per the said telephone bills, as the Defendants contested the demand being excessive one. As the Defendants have failed to pay the amount, the Plaintiffs have

had no option but to institute the present Suit for recovery of the amount under the suit bills.

2. In the Written Statement filed by the Defendants, it is reiterated that they were disputing the claim of the Plaintiffs in relation to the suit telephone bills. In view of the stand taken on behalf of the Defendants, it necessarily follows that a dispute was raised which was squarely governed by provisions of Section 7B of the Indian Telegraphs Act, 1885. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

3. Significantly, in Para 2 of the Written Statement, the Defendants themselves have asserted that the Plaintiffs ought to have referred the matter for arbitration as per the statutory obligation cast upon the Plaintiffs.

4. Taking overall view of the matter and having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs.**

V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545, it is appropriate that the matter is referred to arbitration. The reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

5. The Central Government shall notify the arbitrator before whom the present dispute will be tried and decided in arbitration. The Plaintiffs to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

6. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

7. It is made clear that all issues raised in

the present Suit at the instance of either side shall be considered on its own merits in accordance with law in the arbitration proceedings.

8. In view of the above order, the Suit is disposed of. Refund as per rules.

9. Counsel for the Plaintiffs to forthwith inform the Counsel for the Defendants as well as the Defendants about the order passed today.

A.M.KHANWILKAR, J.